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**Subject:** NYT: California Sues the Trump Administration in Its Escalating War Over Auto Emissions

## ***California Sues the Trump Administration in Its Escalating War Over Auto Emissions***



Mary Nichols, the chairwoman of the California Air Resources Board, with Gov. Gavin Newsom, left, and attorney general Xavier Becerra, on Wednesday at a news conference. CreditCreditRich Pedroncelli/Associated Press



**By Coral Davenport**

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WASHINGTON — California and 23 other states on Friday filed suit against the Trump administration's unprecedented legal reversal of the state's authority to set its own rules on climate-warming tailpipe emissions.

The lawsuit represents the starting gun in a sweeping legal battle over states' rights and climate change that is likely to be resolved only once it reaches the Supreme Court. The decision could ultimately have wide-ranging repercussions affecting states' control over their own environmental laws, the volume of pollution produced by the United States, and the future of the nation's auto industry.

All the state attorneys general signing on to the suit are Democrats, but they represent several states that Mr. Trump won in 2016. States joining the lawsuit include Colorado, Illinois, Maryland, Massachusetts, Nevada, North Carolina, New Mexico, New York, Oregon, Washington, Wisconsin, Pennsylvania and Michigan.

"This is the fight of a lifetime for us," said Mary Nichols, California's top climate change official. "I believe we will win."

The two top Trump administration officials overseeing the move proudly defended it at a Thursday morning news conference at the Washington headquarters of the Environmental Protection Agency. Transportation Secretary Elaine Chao said that the abolishment of California's stringent rule on tailpipe pollution — which 13 other states also follow — "meets President Trump's commitment to establish uniform fuel economy standards for vehicles across the United States, ensuring that no state has the authority to impose its policies on everybody else in our whole country."

Should the case reach the Supreme Court while Mr. Trump remains in office — a Democratic administration would be unlikely to defend the policy in court — administration officials say they are confident they will win. Legal experts say that view may have merit.

"It's not an environmentally friendly court," said Michael Gerrard, an expert in environmental law at Columbia University.

The Transportation Department and E.P.A. will jointly revoke a legal waiver, granted to California by the Obama administration under the authority of the 1970 Clean Air Act, allowing the state to set tighter state standards for greenhouse gas emissions from vehicle tailpipes.

The move is the first of a planned one-two punch designed by the Trump administration to unravel one of Mr. Obama's signature climate change policies: In the coming weeks, the E.P.A. and Transportation Department are also expected to roll back a national Obama-era tailpipe pollution standard that was based upon the California standard.

California's plan to take the Trump administration to court over the move further escalates the increasingly antagonistic relationship between Mr. Trump and the state on policy matters such as immigration, the environment and health care.

The enmity also appears personal. Mr. Trump announced the plan to revoke California's greenhouse gas pollution waiver on Twitter on Wednesday while in Los Angeles to attend a fund-raiser. That night, he told reporters aboard Air Force One that his administration would issue a notice of environmental violation against the city of San Francisco because of what he described as its homelessness problem.

California has not been shy about striking back. Counting the suit filed Thursday, California's attorney general, Xavier Becerra, has now filed 60 lawsuits against the Trump administration. Those have resulted in 37 legal victories for the state — a mix of decisions in favor of California, or preliminary injunctions halting the Trump administration's actions pending a final decision.

"The administration insists on attacking the authority of California and other states to tackle air pollution and protect public health," said Mr. Becerra in a statement. "President Trump should have at least read the instruction manual he inherited when he assumed the presidency, in particular the chapter on respecting the rule of law."

Trump administration officials and their allies say they are confident about the legal case for revoking the waiver.

Andrew Wheeler, the administrator of the E.P.A., laid out some of those arguments Thursday morning. Speaking in the E.P.A. headquarters' ornate Rachel Carson room, named for the biologist who is credited with galvanizing the modern environmental movement, Mr. Wheeler laid out a two-pronged legal argument for revoking the pollution waiver.



Transportation secretary Elaine Chao, right, and E.P.A. administrator Andrew Wheeler on Thursday. Credit Sarah Silbiger/Reuters

He noted that the 1970 Clean Air Act was designed to create national standards to limit vehicle emissions of pollution that damages human health, such as soot and smog. The Clean Air Act allowed California, because of its uniquely bad smog problems, to apply for waivers from the E.P.A. to set stronger state standards. Over the years, California has received dozens of such waivers.

During the Obama administration, the E.P.A. granted California a waiver to set tighter standards for a different kind of pollutant: greenhouse gases.

Trump administration officials contend that the greenhouse gas waiver was improperly granted because, although greenhouse gases cause harm by trapping heat in the atmosphere and warming the planet, they do not cause the specific local or regional problems — say, asthma or lung disease — linked to traditional pollutants such as soot and smog.

“California has unique problems with pollutants” like soot or smog causing health problems locally, Mr. Wheeler said. “It does not make sense to use that authority to try to address a national or global issue like

greenhouse gas pollution.” He added, “For greenhouse gases, the tight and direct link isn’t there. California cars have no closer link to California’s climate change than cars in Japan or anywhere else.”

Mr. Wheeler also noted that in its pursuit of lowering greenhouse gas emissions from vehicles, California sought to set higher vehicle fuel economy standards than the rest of the country. Currently, the national fuel economy standard, which was designed to follow California’s standard, requires automakers to build vehicles that achieve an average fuel economy of 54.5 miles per gallon by 2025, cutting about 6 billions tons of planet-warming carbon dioxide pollution over the lifetime of those vehicles.

The Trump administration is planning to roll back that standard to about 37 miles per gallon. But with the California waiver in place, California and the other states that follow its standard could keep that tighter fuel-economy requirement.

Mr. Wheeler, however, noted that under the Energy Policy and Conservation Act of 1975, states are not allowed to set fuel economy standards, and thus made the case that California’s separate fuel economy standards are illegal. Under that law, the authority to set mileage standards rests primarily with the Transportation Department.

“The statute says no state can have a state law or regulation that is related to fuel economy,” said Jeff Holmstead, who was a top E.P.A. official in the George W. Bush administration.

California and the other states maintain that the waiver to set standards on tailpipe greenhouse pollution was granted lawfully, within the authority granted by Congress under the Clean Air Act, and its revocation is unlawful.

“It is highly uncertain whether E.P.A. has the legal authority to withdraw a waiver. So that’s the first question,” said Mr. Gerrard, the Columbia University professor.

The California lawsuit also contends that those tailpipe standards are required for the state to control emissions of the other pollutants, such as soot and smog, at levels required to meet even federal standards. “We need the extra clean cars to meet the standards set by the federal government,” said Ms. Nichols. “If this prevails, millions of people in California will breathe dirty air. There will be more pollution, more asthma more hospitalizations, more premature deaths.”

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